the later case of *Layton* v. *Monroe*, 50 La. Ann. 121, an injunction was issued to restrain the holding of an election on the question of the extension of the corporate limits of a municipality where it appears that the requisites prescribed by the statute as conditions precedent to the holding of an election have not been complied with.

INJUNCTION—PERSUASION OF SERVANTS TO LEAVE EMPLOYMENT.—The defendant, a labor union, attempted to induce and persuade by peaceable means the employees of complainant to quit their employment. The complainant filed a bill for injunction. *Held*, an injunction should be granted even though there were no binding contract of service but a mere service at will. That the statute of the state providing that "it shall not be unlawful for two or more persons to unite, combine or bind themselves by oath, covenant, agreement, alliance or otherwise to persuade, advise or encourage by peaceable means any person or persons to enter into any combination for or against leaving or entering into the employment of any person, persons or corporations," did not protect the defendant. (GARRISON, SWAYZE, MINTURN, and BOGERT, JJ. dissenting.) *George Jonas Glass Co.* v. *Glass Bottle Blowers' Ass'n.* (N. J. Eq. 1911) 79 Atl. 262.

As a general rule labor has the right to organize to secure control of a trade or work connected therewith and in the absence of a breach of contract or the use of violence, intimidation, or coercion, acts by which it endeavors to effect such purpose will not be enjoined on the ground that it may be injurious to individual business. 24 Cyc. 830; *National Protective Assoc.* v. *Cumming*, 170 N. Y. 315, 63 N. E. 369, 88 Am. St. Rep. 648, 58 L. R. A. 135. An injunction will not be granted against striking employees to prevent their using peaceful entreaty and persuasion to induce others to leave the employment of another where no intimidation is used. *Consolidated Steel Co.* v. *Murray*, 80 Fed. 811; *Standard Tube Co.* v. *Union*, 7 Oh. N. P. 87; *Everett Co.* v. *Union*, 105 Va. 188, 53 S. E. 273, 5 L. R. A. (N. S.) 792. If, however, an attempt is made to induce a party to violate a contract to render services, equity will interfere by injunction if the damage is irreparable. *Erdman* v. *Mitchell*, 207 Pa. St. 79, 56 Atl. 327, 99 Am. St. Rep. 783, 63 L. R. A. 534; *Carroll* v. *Chesapeake Co.*, 124 Fed. 305. In Massachusetts, it seems that persuading employees to quit their employment whether under contract or not will be enjoined. *Vegelahn* v. *Guntner*, 167 Mass. 92, 35 L. R. A. 722, 57 Am. St. Rep. 443, 47 N. E. 1077. Also, one using threats, intimidation, violence, abusive, or violent language to persuade employees to leave their employment will be enjoined. *Southern Ry. Co.* v. *Union*, 111 Fed. 49. But in so far as the principal case enjoins the defendant from persuading by peaceful means the employees of the complainant, who are not under contract, to quit, it is against the weight of authority.

MASTER AND SERVANT—NO "CONSTRUCTIVE SERVICE" AFTER WRONGFUL DISCHARGE.—P. was employed by D. for eighteen weeks at $25.00 per week, payable weekly. At the end of the ninth week P. was discharged without cause, and paid her wages in full to that date. At the end of the following week P. sued before a justice of the peace for a week's wages and recovered a

judgment of $25.00 and costs, which D. paid. In a later action by P. before a justice of the peace to recover for eight weeks of service at $25.00 per week, P. recovered $200.00. There was an appeal taken to the Circuit, Appellate and finally to the Supreme Court, which *held* that the former judgment rendered by the justice of the peace was a bar to the action. *Doherty* v. *Shipper & Block* (Ill. 1911) 95 N. E. 74.

It has been held that an employee may sue for each installment of wages as it falls due, and the recovery on one installment is no bar to recovery on later installments, on the fiction of "constructive service." *Gandell* v. *Pontigny,* 4 Camp. 375. But the doctrine was repudiated in *Goodman* v. *Pocock,* 15 Ad. & E. (N. S.) 574, and the general trend of authority in this country seems to be against it. *James* v. *Allen Co.,* 44 Ohio St. 226, 6 N. E. 246; *Moody* v. *Leverich,* 4 Daly (N. Y.) 401; *Colburn* v. *Woodworth,* 31 Barb. (N. Y.) 381; *Booge* v. *Pac. R. Co.,* 33 Mo. 212; *Howard* v. *Daly,* 61 N. Y. 362, 19 Am. Rep. 285; *Richardson* v. *Eagle Machine Works,* 78 Ind. 422; *Olmstead* v. *Bach & Son,* 78 Md. 132. In *Howard* v. *Daly* the Court said: "If the relation of master and servant is broken off—it is clear she can not recover for wages in the same sense as if she had actually rendered the service." The precise point has not been passed on in Illinois though the Court in *Hamlin, Hale & Co.* v. *Race,* 78 Ill. 422, used words indicating there might be a recovery, and in *Mt. Hope Cemetery Ass'n.* v. *Weidemann,* 139 Ill. 67, 28 N. E. 834 that there would not. But in the present case the Illinois court distinctly refuses to accept the doctrine of constructive service, saying: "We think the doctrine of constructive service where used as a basis of recovery is unsound and illogical * * * The proper measure of damages is the contract price less what the employee earned or could have earned * * * How can it then be said that while he is performing service for another person he is constructively engaged in the employ of the employer by whom discharged? * * * The only true basis upon which an action like this can rest is for damages for breach of contract and as the breach of contract occurs at the time of the discharge, the cause of action is then complete and can not be split up, but was merged in the first judgment." In speaking of the constructive service rule the Minnesota Court in *McMullan* v. *Dickinson Co.,* 60 Minn. 156, 62 N. W. 120, 27 L. R. A. 409, 51 Am. St. Rep. 511, said: "Prospective damages beyond the day of trial are too contingent and can not be assessed —then if the discharged servant can have but one action it is necessary for him to wait and starve as long as possible before commencing it. If he waits longer than six years after the breach the statute of limitations will have run, and he will lose his whole claim. If he brings his action within six years he will lose his claim for the balance of the time after the day of trial. Under this rule the measure of damages for breach of a thirty-year contract is no greater than for breach of a six or seven year contract. Such a remedy is a travesty of justice. * * * The fiction of constructive service is false and illogical but the measure of damages is correct. It is simply a case of a wrong reason given for a correct rule. * * * The true ground being the liability of the master to indemnify the discharged servant, not to pay him wages, and this indemnity accrues by installments."